

TO: John Peevey, Regional Executive Officer, USAID/Southern Africa

CC: Deborah Broderick, Agency Competition Advocate

FROM: Aaron Bennett, Regional Engineering Officer, USAID/Southern Africa

DATE: November 23, 2016

SUBJECT: Justification for Other than Full and Open Competition under the *Expedited Acquisition and Assistance Procedures for USAID's Activities and Programs Related to the Prevention, Care and Treatment of HIV/AIDS*

We request approval of this justification for use of other than full and open competition pursuant to the authorities under the EPP "Expedited Acquisition and Assistance Procedures USAID's Activities and Programs Related to the Prevention, Care and Treatment of HIV/AIDS" (the "Expedited Procedures Package"), approved on February 11, 2014. Your approval of this J&A constitutes the justification for other than full and open competition as required by Tab 1 (D&F for the Authorization of Less than Full and Open Competitive Procedures in the Modification or Award of Contracts) of the EPP.

a) Nature and/or description of the action being approved.

The proposed action is essentially a modification to an award by the United States Embassy in Windhoek, Namibia, to Windhoek-based firm Prinsloo Loubser Architects ("PLA") for provision of design plans and drawings for renovation of USAID/Namibia office space in the Channel Life Building 5th, 6th, and 7th floors (the "Scope of Work" or "SOW"). USAID/Namibia plans to issue a separate purchase order to PLA to finalize the SOW so that work can commence. The purchase order to be awarded will be for \$75,000 or less. But for the change in the agency engaging the services, this change could likely have been done through a modification.

b) A description of the supplies or services required to meet USAID's needs (including the estimated value).

PLA has been working with the U.S. Embassy-Windhoek since 2012. They were originally approached in October 2014 by the Embassy Facility Management Office ("FMO") to assist in developing a SOW for renovation work to the USAID space in the Channel Life building. The USAID space is desperately in need of renovations to update severely outdated and poorly maintained space, as well as to create much needed workspace for new President's Emergency Plan for AIDS Relief ("PEPFAR") staff (several from CDC), including space for the Embassy's PEPFAR Coordinator's Office, which will be located on the 7th floor. Priority renovations include addressing safety and security issues, such as disintegrating carpet tiles causing individuals to trip and fixing holes in walls that create gaps to the outside from seven stories up. In particular, the holes in the wall are very concerning. Previously they were covered with non-water resistant particle board, but these boards have warped and fallen off, creating an uncomfortable and unsafe work environment.

After a hiatus of two years, in July 2016, FMO provided details of work to be carried out on the 7th floor to accommodate the five PEPFAR staff being moved to USAID and to address other issues with the USAID space. On July 8, PLA architect, Lanel Wenhold Kotze, met with FMO

chief, Orlin Clements, and USAID Regional Executive Officer, Markus Dausses, to discuss the scope of work for the renovation of the 5th, 6th, and 7th floors of the USAID space. On July 26, 2016, PLA sent its fee estimate to Embassy FMO to develop the SOW, after which the Embassy gave PLA the green light to begin. PLA later delivered the SOW, submitted an invoice for the work performed and received payment. The Embassy considered the SOW complete for its purposes.

Subsequently, in October 2016, U.S. Embassy-Windhoek informed USAID that no further oversight work would be carried out by FMO regarding the USAID renovation project. Instead, USAID was told to assume responsibility for completing the renovation work. At that point responsibility shifted from FMO-Windhoek to the USAID/Southern Africa Executive Office ("EXO") and the USAID/Namibia EXO.

As the USAID/Southern Africa Engineering Officer responsible for engineering projects in Southern Africa, I have determined that the PLA's SOW for the USAID office renovation is not fully complete. This was confirmed on November 8, 2016, in an email from Ms. Kotze, Architect at PLA, in which she outlined the SOW services set out in PLA's standard Client-Architect Agreement. The services comprise five stages:

Stage 1 - Appraisal and definition of project Stage 2 - Design Concept

Stage 3 - Design Development

Stage 4 - Technical Documentation and Approval Stage 5 - Contract Administration and Inspection

Ms. Kotze stated: 'We consider stages 1-3 completed and paid for.' I concur. The remaining stages (stages four and five) need to be performed for this project to be completed, and without PLA's involvement this will not be possible or would require substantial time delays, duplicative efforts and unnecessary expenditures. As mentioned above, the estimated value for PLA to render these services is under \$75,000.

PLA was originally engaged by U.S. Embassy-Windhoek to provide a general scope of work for the renovation of USAID/Namibia office space. As enumerated above, they completed three of the five stages of the standard Namibian Client-Architect Agreement. The Client-Architect Agreement clearly states that a complete scope of work comprises five stages. Accordingly, a purchase order to re-engage PLA to complete the final two stages of the SOW in a way that will allow USAID to proceed with the renovations is required. The original award with the U.S. Embassy was procured following the Embassy's procedures.

c) Identification of statutory authority permitting other than full and open competition.

AIDAR 706.203-70 and 40 U.S.C. §113; See Action Memorandum entitled "HIV/AIDS Expedited Acquisition and Assistance Procedures for USAID's Activities and Programs Related to the Prevention, Care and Treatment of HIV/AIDS" (the "HIV/AIDS EPP") approved on February 11, 2014.

This waiver is valid until December 31, 2019. Among other things, the HIV/AIDS EPP provides authorization for other than full and open competition for the award or modification of contracts for HIV/AIDS programs, including activities implemented under PEPFAR.

In this instance, USAID/Namibia's presence in country is solely to implement PEPFAR (i.e.,

HIV/AIDS) activities; therefore, renovations to provide a safe and comfortable workspace for USAID/Namibia and interagency staff to implement PEPFAR programs is in support of the Agency's HIV/AIDS work and constitutes an HIV/AIDS activity. As noted in para 3, above, the renovations will improve team workspace to allow for greater collaboration and coordination of HIV/AIDS programming and to address critical safety concerns. Additionally, also noted in para 3, the renovations are being conducted not only to facilitate USAID/Namibia's PEPFAR work generally, but to specifically create working space for five PEPFAR Coordinator Office staff. As a result, the HIV/AIDS EPP is available to permit other than full and open competition in the award of a purchase order to PLA.

d) A discussion of the proposed contractor's unique qualifications or the nature of the acquisition that requires use of the authority cited.

Exercising the authority per the HIV/AIDS EPP to exempt competition is essential to USAID/Namibia's ability to engage PLA to complete the SOW. It would be a waste of U.S. taxpayer resources if PLA were not engaged, as PLA is uniquely positioned to satisfy USAID/Namibia's requirements (as discussed below). Additionally, if PLA does not complete the SOW, USAID/Namibia risks further complications with finalizing the SOW, which would jeopardize the renovations itself.

No other firm is available to step in and satisfactorily finalize the SOW in a way that would meet USAID's requirements. The alternative would be to hold a full and open competition to start the SOW design over, which in addition to causing further delays, would be extremely inefficient and result in significant waste of taxpayer dollars. It is important for the PEPFAR staff to be co-located to enhance collaboration at a time when PEPFAR programming is becoming more scrutinized and data intensive. Delays in bringing the team together in a single space will prolong inefficiencies in collaboration.

The first three elements of the SOW delivered by PLA are satisfactory, making PLA both responsible and uniquely positioned to complete the final two elements of the SOW. A project that has already taken two years to launch faces the prospect of losing current funding if further delays are experienced. It would also be extremely inefficient and wasteful to openly compete the final work of the SOW and/or to consider another firm that would not have the in-depth knowledge that PLA has for the work needed. But for the change in the agency engaging the services, this change could likely have been done through a modification.

As noted above, the SOW is imperative to USAID/Namibia's ability to procure a workspace conducive to the implementation of HIV/AIDS and to make room for PEPFAR-funded staff. Opting for full and open competition in this instance would impede and delay USAID/Namibia's ability to identify a contractor to commence (and complete) the renovations and would not be in the best interests of the Agency.

e) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.

Soliciting offers from multiple sources is not applicable in this case, as the proposed modification is authorized to be made on sole-source basis under AIDAR 706.203-70 and 40 U.S.C. §113, as described above.

- f) A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.**

The rates for services provided by PLA are consistent with the rates determined from schedule of fees chargeable by A&E firms as published by the Namibia Institute of Architects. The USAID Regional Engineer and Contracting Officer have made the determination that the costs to the U.S. Government are fair and reasonable.

- g) A description of the market research conducted (see FAR Part 10) and the results or a statement of the reason(s) market research was not conducted.**

Market research is not applicable in this case, as the proposed modification is authorized to be made on a sole-source basis under AIDAR 706.203-70 and 40 U.S.C. §113, as described above.

- h) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.**

No sources have expressed, in writing, an interest in the acquisition.

- i) A statement of the actions, if any, USAID may take to remove or overcome any barriers to competition before any subsequent acquisition of the supplies or services required.**

Once the SOW is complete, a U.S. Small Business is likely to be engaged to prepare the solicitation for renovation services. Such renovation services will be procured through full and open competition.

RECOMMENDATION

It is recommended that you approve this justification for use of other than full and open competition pursuant to the Action Memorandum "HIV/AIDS Expedited Acquisition and Assistance Procedures for USAID's Activities and Programs Related to the Prevention, Care and Treatment of HIV/AIDS", approved on February 11, 2014. Your approval of this J&A constitutes the justification for other than full and open competition as required by Tab 1 (D&F for the Authorization of Less than Full and Open Competitive Procedures in the Modification or Award of Contracts) of the EPP.

CERTIFICATION:

The requirement for technical certification at FAR 6.303-2(b) is fulfilled through:

- a. The signature of the Technical Officer below certifying the specific supporting data for this JJ&A; and
- b. The EPP entitled "HIV/AIDS Expedited Acquisition and Assistance Procedures for USAID's Activities and Programs Related to the Prevention, Care and Treatment of HIV/AIDS" approved February 11, 2014 (attached).

Technical Officer:

I hereby certify that the supporting data which form a basis for the justification are complete and accurate to the best of my knowledge and belief.

Aaron Bennett
Engineering Officer

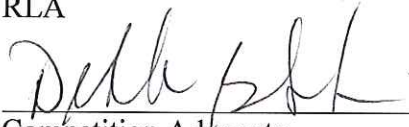
Signed on Nov. 23, 2016
Date

APPROVAL:

John Peevey
Contracting Officer

Signed on Nov. 23, 2016
Date:

CLEARANCE:

Richard Nelson
RLA

Competition Advocate

Signed on Nov. 23, 2016
Date:
12/7/16
Date: